## United States Department of Labor Employees' Compensation Appeals Board

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P.B., Appellant	)
and	) Docket No. 19-1532 ) Issued: April 30, 2020
U.S. POSTAL SERVICE, POST OFFICE, Royersford, PA, Employer	)
Appearances: Thomas R. Uliase, Esq., for the appellant <sup>1</sup> Office of Solicitor, for the Director	Case Submitted on the Record

## ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge

On July 10, 2019 appellant, through counsel, filed a timely appeal from a January 30, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-1532.

On November 16, 2016 appellant, then a 61-year-old carrier technician, filed an occupational disease claim (Form CA-2) which he attributed to factors of his federal employment. On November 22, 2016 OWCP received a narrative statement from appellant in which he noted that he was first diagnosed with degenerative joint disease of his hips and knees in June 2014.<sup>2</sup> He explained that his job duties required, but were not limited to prolonged standing, lifting of heavy trays of mail, loading his truck, getting in and out of the mail truck, and walking while carrying a

<sup>&</sup>lt;sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claimfor a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>&</sup>lt;sup>2</sup> The case record reflects that appellant has a previous occupational disease claim (Form CA-2) filed on June 4, 2014 under OWCP File No. xxxxxx212. That claim is currently in denied status.

heavy satchel on uneven terrain. Appellant further explained that he sustained a traumatic injury to his left knee on May 16, 2015 when he attempted to remove a seat from the back of his truck.<sup>3</sup> He alleged that his left knee continued to worsen due his federal employment duties which required extensive standing and walking, lifting and carrying heavy trays and satchels of mail, and loading of his truck. Appellant was referred in December 2016 for a total left knee replacement.

By decision dated February 1, 2017, OWCP denied appellant's occupational disease claim.

On February 28, 2017 counsel for appellant requested a hearing. On April 27, 2017 he subsequently requested a review of the written record. By decision dated June 9, 2017, OWCP's hearing representative affirmed the February 1, 2017 decision.

Appellant subsequently requested reconsideration and by decisions dated July 30, 2018 and January 30, 2019 OWCP denied modification.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.<sup>4</sup> For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.<sup>5</sup> In the instant case, appellant had a prior occupational injury claim for hip and knee injuries assigned OWCP File No. xxxxxxx212. He then filed a traumatic injury claim for the left, knee assigned OWCP File No. xxxxxxx749. Neither of these claims have been combined with the current claim, in which appellant alleges that his continued work as a letter carrier aggravated his prior knee conditions.

For a full and fair adjudication, the Board finds that the previously noted claims should be combined with the current claim under OWCP File No. xxxxxx343, pursuant to OWCP procedures. Therefore, the case must be remanded to OWCP to administratively combine the case records for OWCP File Nos. xxxxxx212, xxxxxx749, and xxxxxx343. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision on the merits of appellant's claim.

## **CONCLUSION**

The Board finds that this case is not in posture for decision.

<sup>&</sup>lt;sup>3</sup> That claim was assigned OWCP File No. xxxxxx749 and was accepted by OWCP for left knee sprain and medical meniscus tear.

<sup>&</sup>lt;sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000).

<sup>&</sup>lt;sup>5</sup> *Id.*, *L.H.*, Docket No 18-1777 (issued July 2, 2019).

## <u>ORDER</u>

**IT IS HEREBY ORDERED THAT** the January 30, 2019 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this order of the Board.

Issued: April 30, 2020 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

Christopher J. Godfrey, Deputy Chief Judge Employees' Compensation Appeals Board

Janice B. Askin, Judge Employees' Compensation Appeals Board